

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

ROBERT GENE BAILEY,)
Plaintiff,)
v.)
WILLIAM C. TOMAN JR., et al.,)
Defendants.)
NO. 5:13-CV-252-FL

Plaintiff, who is currently incarcerated in a state prison, filed these actions under 42 U.S.C. § 1983 and seeks to proceed in forma pauperis. Plaintiff's actions must be dismissed under the "three strikes" provision of the Prison Litigation Reform Act ("PLRA").

The PLRA allows the court to dismiss a prisoner's action "if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g); see Tolbert v. Stevenson, 635 F.3d 646, 650 (4th Cir. 2011).

Plaintiff previously has filed at least three cases which have been dismissed as frivolous, including Bailey v. Blue, No. 5:09-CV-195-F (E.D.N.C. June 11, 2009); Bailey v. Lowery, No. 5:09-CV-194-F (E.D.N.C. June 11, 2009); Bailey v. Chisolm, No. 5:09-CV-181-F (E.D.N.C. June 11, 2009).

11, 2009); Bailey v. Marsh, No. 5:09-CV-180-F (E.D.N.C. June 11, 2009); Bailey v. Butler, No. 5:09-CV-153-F (E.D.N.C. June 11, 2009); Bailey v. Simpson, No. 5:09-CV-84-F (E.D.N.C. June 11, 2009); and, Bailey v. Gaddy, No. 5:09-CV-60-F (E.D.N.C. May 12, 2009). Further, this court previously has dismissed actions filed by plaintiff pursuant to the “three strike” provision. See Bailey v. Toman, Nos. 5:13-CV-214-D, 5:13-CV-217-D, 5:13-CV-218-D (E.D.N.C. April 1, 2013); Bailey v. Toman, No. 5:13-CV-114-BR (E.D.N.C. March 8, 2013); Bailey v. Stubbs, No. 5:10-CV-00058-FL (E.D.N.C. June 10, 2010); Bailey v. Jones, No. 5:09-CV-00463-F (E.D.N.C. Oct. 27, 2009).

Plaintiff must show that he is under imminent danger of serious physical injury in order to proceed in this action without prepayment of the filing fee. See 28 U.S.C. § 1915(g). The allegations filed in these actions do not suggest that plaintiff is under any such danger. Accordingly, the court DISMISSES these actions under 28 U.S.C. § 1915(g). The clerk shall file this order in each case and close the cases.

SO ORDERED, this the 9th day of April, 2013.



LOUISE W. FLANAGAN
United States District Judge